

LITIGATION ROSTER

FRANCHISE AND INCOME TAX

NOVEMBER 2008

**Franchise and Income Tax
November 2008**

NEW CASES

Case Name

Court/Case Number

NONE

CLOSED CASES

Case Name

Court/Case Number

REED, RONALD EDWARD

Los Angeles Superior Court BC 394059

Please refer to the case roster for more detail regarding new and closed cases

Franchise and Income Tax

LITIGATION ROSTER

November 2008

BATES, ALEX, et al. v. Franchise Tax Board, et al.

Los Angeles Superior Court Case No. BC 287896
Court of Appeal, Second Appellate District Case No. B169940
Plaintiffs' Counsel
Derek L. Tabone
Law Offices of Tabone, APC

Filed – 04/14/03
BOE's Counsel
Brian Wesley
BOE Attorney
Jeff Angeja

Issue(s): This lawsuit deals with a non-filing Franchise and Income Tax (FIT) appellant's contentions that the BOE does not comply with the Information Practices Act (IPA). Based upon the alleged violations of the IPA, plaintiffs request preliminary and permanent injunctions against all defendants to restrain them from violating the provisions of the IPA.

Audit/Tax Period: None

Amount: Unspecified

Status: At the hearing on December 3, 2007, the Court granted BOE's and FTB's Motion for Stay of this case pending the Court of Appeal decision in *Ballmer v. Franchise Tax Board*. Status conference re Stay has been continued from October 29, 2008 to March 5, 2009.

SCHROEDER, DONNIE v. State Board of Equalization, et al.

Sacramento County Superior Court Case No. 34-2008-00023624
Plaintiff's Counsel
Donnie Schroeder
In pro per

Filed – 10/02/08
BOE's Counsel
Stephen Pass
BOE Attorney
Robert J. Stipe

Issue(s): Plaintiff contends that the State of California, by and through the Franchise Tax Board (FTB) and State Board of Equalization (BOE), made intentional settling determinations of plaintiff's tax liability during the period 1995 to the present. Further, FTB and BOE ignored plaintiff's rights to judicial review in violation of plaintiff's constitutional rights. FTB published personal and private information with the Sacramento County Recorder's Office, allowing public viewing of plaintiff's private information to the general public.

Audit/Tax Period: None

Amount: Unspecified

Status: Demurrer by Defendant State of California, acting by and through the Franchise Tax Board (FTB) and State Board of Equalization (BOE), was filed November 6, 2008. Hearing on the Demurrer is set for January 9, 2009.

TYLER-GRIFFIS, PATRICIA v. State Board of Equalization

Court of Appeal, Third Appellate District: C056745
Sacramento Superior Court Case No. 07CS00449
Plaintiff's Counsel
William E. Taggart, Jr.
Taggart & Hawkins

Filed – 04/11/07
BOE's Counsel
Jeff Rich
BOE Attorney
Amy Kelly

Issue(s): Whether the taxpayer is entitled to relief as an innocent spouse; whether innocent spouse cases are subject to the “pay now, litigate later” rule; whether the BOE is the proper agency to sue ([Revenue and Taxation Code section 18533](#); *Appeal of Patricia Tyler-Griffis*, 2006-SBE-004, (Dec. 12, 2006)).

Audit/Tax Period: 1984

Amount: Unspecified

Status: In an unpublished opinion issued September 29, 2008, the Court of Appeal upheld the trial court decision sustaining the BOE’s demurrer without leave to amend. Appellant was ordered to pay BOE’s costs on appeal.

FRANCHISE AND INCOME TAX
CLOSED CASES
LITIGATION ROSTER
November 2008

REED, RONALD EDWARD v. Franchise Tax Board, et al.

Los Angeles Superior Court Case No. BC394059

Plaintiff's Counsel

Ronald Edward Reed

In Pro Per

Filed – 07/14/08

BOE's Counsel

Elisa Wolfe-Donato

BOE Attorney

W. Gregory Day

Issue(s): This case involves the plaintiff's contentions that he was the subject of unlawful or unmeritorious notices of income tax due by the FTB; that FTB ignored his protest of the notices; that he was damaged by FTB's subsequent levies on his bank accounts; and that FTB ignored his later attempts to remedy the injury. The issues in this case are whether BOE is a proper party to the proceedings, as the First Amended Complaint makes no reference to any act or omission or involvement on the part of BOE or to any tax appeal to BOE by the taxpayer (see [Revenue and Taxation Code section 19045](#)); whether the plaintiff's suit is barred as a pre-payment suit ([California Constitution, Article 13, section 32](#); [Revenue and Taxation Code, section 19381](#)); and whether the plaintiff's suit is barred for failure to file an administrative claim for refund of a tax payment ([Revenue and Taxation Code section 19382](#); see *Shiseido Cosmetics (America), Ltd. V. FTB* (1991) 235 Cal. App. 3d 478, cert. den., October 19, 1992).

Audit/Tax Period: None

Amount: Unspecified

Disposition: In its ruling issued October 3, 2008, the trial court granted the BOE's and FTB's Demurrer to plaintiff's First Amended Complaint, with 30 days leave to amend. BOE was not named as a defendant in plaintiff's Second Amended Complaint. The case is dismissed as to the BOE.

DISCLAIMER

Every attempt has been made to ensure the information contained herein is valid and accurate at the time of publication. However, the tax laws are complex and subject to change. If there is a conflict between the law and the information found, decisions will be made based on the law.

Links to information on sites not maintained by the Board of Equalization are provided only as a public service. The Board is not responsible for the content and accuracy of the information on those sites.